

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**The Minutes**

**July 9, 2001**

- |                |   |                              |
|----------------|---|------------------------------|
| <b>C034240</b> | <b>THE PEOPLE v. WILSON</b><br>The judgment is affirmed.<br>NICHOLSON, J.<br>We concur: Davis, Acting P.J.<br>Morrison, J.  | <b>(Not for Publication)</b> |
| <b>C035205</b> | <b>THE PEOPLE v. WHITE</b><br>The judgment is affirmed.<br>NICHOLSON, J.<br>We concur: Davis, Acting P.J.<br>Callahan, J.   | <b>(Not for Publication)</b> |
| <b>C035219</b> | <b>THE PEOPLE v. JAMISON</b><br>The judgment is affirmed.<br>NICHOLSON, Acting P.J.<br>We concur: Raye, J.<br>Hull, J.  | <b>(Not for Publication)</b> |
| <b>C035787</b> | <b>THE PEOPLE v. NORMAN</b><br>The judgment is affirmed.<br>NICHOLSON, J.<br>We concur: Scotland, P.J.<br>Morrison, J.  | <b>(Not for Publication)</b> |
| <b>C035871</b> | <b>THE PEOPLE v. MCCARTER</b><br>The judgment is modified solely as to the number of presentence credits, and we remand this matter to the trial court for the preparation of an amended abstract of judgment reflecting the correct number of credits as specified hereinabove. In all other respects, the judgment is affirmed.<br>NICHOLSON, J.<br>We concur: Davis, Acting P.J.<br>Callahan, J. | <b>(Not for Publication)</b> |
| <b>C036201</b> | <b>THE PEOPLE v. JOHNSON</b><br>The judgment is affirmed.<br>NICHOLSON, J.<br>We concur: Scotland, P.J.<br>Morrison, J.   | <b>(Not for Publication)</b> |
| <b>C036573</b> | <b>THE PEOPLE v. PETERSON</b><br>The judgment is affirmed.<br>RAYE, J.<br>We concur: Blease, Acting P.J.<br>Morrison, J.  | <b>(Not for Publication)</b> |

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**The Minutes**

**July 9, 2001, continued**

**C037272      THE PEOPLE v. THOMAS      (Not for Publication)**  
The judgment is affirmed. The trial court is directed to prepare an amended abstract reflecting that the crime for which defendant was convicted is "carrying a concealed dirk or dagger." The court is further directed to send a certified copy of the amended abstract of judgment to the Department of Corrections.  
                                DAVIS, J.  
We concur:      Blease, Acting P.J.  
                                Sims, J.

**July 10, 2001**

**C031453      THE PEOPLE v. MARKEY      (Not for Publication)**  
The judgment is affirmed.  
                                KOLKEY, J.  
We concur:      Sims, Acting P.J.  
                                Raye, J.

**C031475      THE PEOPLE v. JACKSON      (Not for Publication)**  
Defendant's conviction on count 6 for violating section 12020, subdivision (a), is reversed, and his sentence of eight months for that conviction is stricken. In all other respects, the judgment is affirmed. The trial court is instructed to prepare an amended abstract of judgment and to forward a certified copy thereof to the Department of Corrections.  
                                KOLKEY, J.  
We concur:      Sims, Acting P.J.  
                                Raye, J.

**C032077      THE PEOPLE v. SNOW      (Not for Publication)**  
The judgment is affirmed.  
                                SCOTLAND, P.J.  
We concur:      Nicholson, J.  
                                Hull, J.

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**The Minutes**

**July 10, 2001, continued**

- C032142      THE PEOPLE v. FIELDS      (Not for Publication)**  
The trial court's findings that defendant suffered three prior strike convictions and one prior serious felony based on his three Oklahoma robbery convictions are vacated. The cause is remanded to the trial court for resentencing. If the prosecution elects to retry the strike and/or serious felony allegations, it must make that election within 60 days of the filing of our remittitur. In all other respects, the judgment is affirmed.  
                                 DAVIS, J.
- I concur:            Hull, J.  
I concur in the judgment and in the opinion except as to Part IV of the Discussion, as to which I concur in the result...For these reasons I concur in the remand.  
                                 Blease, Acting P.J.
- C033510      THE PEOPLE v. CHAPPEL      (Not for Publication)**  
We reverse the judgment on counts two, three and four, and also order the abstract of judgment be amended to award 296 days of presentence conduct and custody credits. In all other respects, the judgment is affirmed.  
                                 SIMS, J.  
I concur:            Scotland, P.J.  
I respectfully dissent...  
                                 Davis, J.
- C035206      THE PEOPLE v. McCLEARY      (Not for Publication)**  
The judgment is affirmed.  
                                 DAVIS, Acting P.J.  
We concur:        Raye, J.  
                                 Kolkey, J.
- C035240      THE PEOPLE v. ELSOM      (Not for Publication)**  
The judgment is affirmed.  
                                 CALLAHAN, J.  
We concur:        Davis, Acting P.J.  
                                 Kolkey, J.
- C035944      THE PEOPLE v. LUCCHESI      (Not for Publication)**  
The judgment is reversed and the cause remanded to the trial court with instructions to vacate its order denying defendant's motion to suppress. The court is directed to enter a new order suppressing all evidence against defendant fairly derived from the prolonged detention and for further proceedings consistent with this opinion.  
                                 BLEASE, Acting P.J.  
We concur:        Raye, J.  
                                 Morrison, J.

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**July 10, 2001, continued**

- C036056      THE PEOPLE v. CHAPMAN      (Not for Publication)**  
The judgment is affirmed.  
   DAVIS, Acting P.J.  
We concur:      Callahan, J.  
   Hull, J.
- C036975      THE PEOPLE v. RASMUSSEN      (Not for Publication)**  
The superior court is directed to prepare an amended abstract of judgment reflecting the sentence imposed by the court and to forward a certified copy thereof to the Department of Corrections. The judgment is affirmed.  
   SIMS, J.  
We concur:      Scotland, P.J.  
   Raye, J.
- C037382      THE PEOPLE v. RAVENCROFT      (Not for Publication)**  
The judgment is affirmed.  
   DAVIS, J.  
We concur:      Sims, Acting P.J.  
   Morrison, J.
- C031291      SUSANVILLE RESOURCES, INC. v. LASSEN COMMUNITY COLLEGE  
C032660      DISTRICT et al.      (Not for Publication)**  
The judgment in C031291 is reversed and remanded only to the extent it grants summary adjudication on the theory of rescission, and is otherwise affirmed. The order in C032660 is vacated. Neither party shall recover costs of appeal.  
   DAVIS, J.  
I concur:      Hull, J.  
I concur in the opinion and analysis except as to part I.B, in which I concur in the result... Scotland, P.J.
- C036097      In re CHLOE K., SACRAMENTO COUNTY DEPARTMENT OF HEALTH  
AND HUMAN SERVICES v. PETER K.      (Not for Publication)**  
Accordingly, the appeal is dismissed.  
   SCOTLAND, P.J.  
We concur:      Sims, J.  
   Nicholson, J.

**July 11, 2001**

- C035749      THE PEOPLE v. JONES      (Not for Publication)**  
The judgment is affirmed.  
   HULL, J.  
We concur:      Sims, Acting P.J.  
   Nicholson, J.

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**July 11, 2001, continued**

- C036004      THE PEOPLE v. DUARTE      (Not for Publication)**  
The judgment is modified to impose a \$50 criminal laboratory analysis fee (Health & Saf. Code, § 11372.5) and state and county penalty assessments of \$50 and \$35, respectively. The trial court is directed to prepare an amended abstract and further directed to send a certified copy of the amended abstract of judgment to the Department of Corrections. As modified, the judgment is affirmed.  
                                BLEASE, Acting P.J.  
We concur:     Raye, J.  
                                Morrison, J.
- C036488      THE PEOPLE v. VOGEL      (Not for Publication)**  
The judgment is affirmed.  
                                CALLAHAN, J.  
We concur:     Scotland, P.J.  
                                Morrison, J.
- C028402      PROFESSIONAL ENGINEERS IN CALIFORNIA GOVERNMENT et al.  
v. STATE PERSONNEL BOARD et al.      (Certified for  
Publication)**  
The judgment, as modified by this opinion, is affirmed. Each party is to bear its own costs. (CERTIFIED FOR PUBLICATION)  
                                MORRISON, J.  
I concur:       Hull, J.  
I disagree with much of my colleagues' analysis...Accordingly, I would affirm the trial court's judgment in its entirety.  
                                Scotland, P.J.
- C034191      COLLINS v. BOARD OF RETIREMENT OF THE SACRAMENTO  
COUNTY EMPLOYEES RETIREMENT ASSOCIATION      (Not for Publication)**  
We must, therefore, reverse the judgment and remand the case to the trial court to apply the proper standard of review. (Barber v. Long Beach Civil Service Com. (1996) 45 Cal.App.4<sup>th</sup> 652, 660; Kilpatrick's Bakeries, Inc. v. Unemployment Ins. Appeals Bd. (1978) 77 Cal.App.3d 539, 549.) Applicant shall recover costs on appeal.  
                                RAYE, J.  
We concur:     Nicholson, Acting P.J.  
                                Morrison, J.

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**July 11, 2001, continued**

- C036912      In re FOREST R.; THE PEOPLE v. FOREST R.**  
**(Not for Publication)**  
The matter is remanded to the juvenile court for compliance with Welfare and Institutions Code section 702. If the court declares the assault a misdemeanor, it shall (1) strike the enhancement and impose a misdemeanor sentence, and (2) amend its records accordingly and forward a copy thereof to the Director of the Youth Authority.  
CALLAHAN, J.  
We concur:    Davis, Acting P.J.  
                 Hull, J.
- C037033      In re NICHOLAS S.; THE PEOPLE v. NICHOLAS S.**  
**(Not for Publication)**  
The judgment is affirmed.  
RAYE, J.  
We concur:    Scotland, P.J.  
                 Sims, J.
- C037542      VERNON S. v. THE SUPERIOR COURT OF BUTTE COUNTY and  
BUTTE COUNTY CHILDREN'S SERVICES DIVISION et al.**  
**(Not for Publication)**  
The petition is denied. Having served its purpose, the stay previously issued by this court is vacated.  
SCOTLAND, P.J.  
We concur:    Nicholson, J.  
                 Morrison, J.

**July 12, 2001**

- C033561      THE PEOPLE v. ROBYN**  
**(Not for Publication)**  
The judgment based on counts 4, 5, and 6 is reversed and those counts are stricken. In all other respects, the judgment is affirmed. The trial court is directed to amend the abstract of judgment to reflect this, and to specify the crime in count 3 as "Receiving Stolen Property" and to send a certified copy of the abstract to the Department of Corrections.  
DAVIS, J.  
We concur:    Sims, Acting P.J.  
                 Morrison, J.
- C035214      THE PEOPLE v. TORRES**  
**(Not for Publication)**  
The judgment is affirmed.  
NICHOLSON, J.  
I concur:       Morrison, J.  
I concur in the result...  
                 Scotland, P.J.

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**The Minutes**

**July 12, 2001, continued**

**C034248      CARWASH OF AMERICA – PO v. WINDSWEPT VENTURES NO. I et  
al. and  
C035379      THE SUPERIOR COUR OF SACRAMENTO COUNTY**

**(Not for Publication)**

The judgment is affirmed and the alternative writ, having served its purpose, is discharged.

HULL, J.

We concur:      Nicholson, Acting P.J.

Morrison, J.

**C036329      In re DANIEL B.; THE PEOPLE v. DANIEL B.**

**(Not for Publication)**

The matter is remanded to the juvenile court with directions to determine the felony/misdemeanor character of the violation of Penal Code section 597, subdivision (a), offense and to determine if the minor is in need of a special education program. (See Welf. & Inst. Code, § 1742 [regarding the furnishing of an individualized education program to the Youth Authority]; rule 1493 (d) (5), Cal. Rules of Court [the juvenile court is to consider the educational needs of the child].) In all other respects, the judgment (order committing the minor to the Youth Authority) is affirmed.

BLEASE, Acting P.J.

We concur:      Raye, J.

Morrison, J.

**C036453      In re MARINNA J.; DEPARTMENT OF HEALTH AND HUMAN  
SERVICES v.**

**C036922      TYRONE J. et al.      (Certified for Partial Publication)**

The orders of the juvenile court terminating the parental rights of Tyrone and Corinna are reversed, and the matter is remanded to the juvenile court with directions to order DSS to provide each of the three Cherokee tribes with proper notice of the proceedings under the Act. If, after receiving notice under the Act, no tribe indicates the minor is an Indian child within the meaning of the Act, then the juvenile court shall reinstate the order terminating parental rights.

In all other respects, the judgment is affirmed. (CERTIFIED FOR PARTIAL PUBLICATION)

MORRISON, J.

We concur:      Scotland, P.J.

Nicholson, J.

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**The Minutes**

**July 12, 2001, continued**

**C038074      In re TRACY MAXXIZZINE JONES on Habeas Corpus.**

BY THE COURT:

The People have stipulated that if the record shows the trial court was not aware of its discretion to strike prior offenses, the case may be remanded for the trial court to exercise discretion. This court finds the trial court was not aware of its discretion. Accordingly, the case is remanded to the trial court for the limited purpose of allowing the trial court to exercise its discretion whether to strike one or more of petitioner's strikes. (People v. Romero (1994) 8 Cal.4<sup>th</sup> 728, 740, fn. 7.) The petition for writ of habeas corpus is denied in all other respects.

SIMS, Acting P.J.

**C032572      MACHADO et al. v. STATE WATER RESOURCES CONTROL BOARD  
et al.**

**(Certified for Partial Publication)**

THE COURT:

It is ordered that the opinion filed herein on June 15, 2001, be modified as follows:...

There is no change in the judgment.

The opinion in the above-entitled matter was not certified for publication in the Official Reports. For good cause it now appears that the opinion should be published in the Official Reports and it is so ordered.

FOR THE COURT:

Sims, Acting P.J.

Raye, J.

Hull, J.

**C036949      In re WILLARD C.; SACRAMENTO COUNTY DEPARTMENT OF  
HEALTH AND HUMAN SERVICES v. LACHELLE W.**

**(Not for Publication)**

THE COURT:

It is ordered that the opinion filed herein on June 15, 2001, be modified as follows:...

There is no change in the judgment.

Appellant's petition for rehearing is denied.

FOR THE COURT:

Sims, Acting P.J.

Callahan, J.

Hull, J.



**COURT OF APPEAL  
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**The Minutes**

**July 13, 2001**

- |                |  |                              |
|----------------|--|------------------------------|
| <b>C033005</b> | <b>THE PEOPLE v. REED</b><br>The judgment is affirmed.<br>MORRISON, J.<br>We concur: Sims, Acting P.J.<br>Davis, J.  | <b>(Not for Publication)</b> |
| <b>C034313</b> | <b>THE PEOPLE v. SCOLET</b><br>The judgment is affirmed.<br>MORRISON, J.<br>I concur: Davis, Acting P.J.<br>I concur, except as to part I, in which I concur in the result.<br>Nicholson, J. | <b>(Not for Publication)</b> |
| <b>C034798</b> | <b>THE PEOPLE v. BRYANT, JR.</b><br>The judgment is affirmed.<br>MORRISON, J.<br>We concur: Davis, Acting P.J.<br>Nicholson, J.  | <b>(Not for Publication)</b> |
| <b>C035094</b> | <b>THE PEOPLE v. WILSON</b><br>The judgment is affirmed.<br>NICHOLSON, J.<br>We concur: Scotland, P.J.<br>Morrison, J.   | <b>(Not for Publication)</b> |
| <b>C036284</b> | <b>THE PEOPLE v. NEWSOME</b><br>The judgment is affirmed.<br>NICHOLSON, J.<br>We concur: Scotland, P.J.<br>Morrison, J.  | <b>(Not for Publication)</b> |
| <b>C037358</b> | <b>THE PEOPLE v. COLLINS</b><br>The judgment is affirmed.<br>CALLAHAN, J.<br>We concur: Scotland, P.J.<br>Morrison, J.   | <b>(Not for Publication)</b> |
| <b>C037527</b> | <b>THE PEOPLE v. FINCK</b><br>The judgment is affirmed.<br>NICHOLSON, J.<br>We concur: Blease, Acting P.J.<br>Raye, J.   | <b>(Not for Publication)</b> |

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**The Minutes**

**July 13, 2001, continued**

- C033328      LOCKLIN v. LOCKLIN and LOCKLIN et al.**  
**(Not for Publication)**  
The order denying the motion to compel arbitration is affirmed.  
RAYE, J.  
We concur:    Davis, Acting P.J.  
                  Nicholson, J.
- C034971      PYLE v. THE STATE BAR OF CALIFORNIA et al.**  
**(Not for Publication)**  
The order dismissing the complaint is affirmed.  
DAVIS, Acting P.J.  
We concur:    Raye, J.  
                  Kolkey, J.
- C035956      BAKER v. BAKER**  
**(Not for Publication)**  
The judgment is affirmed. David Baker shall recover his costs on appeal.  
SIMS, Acting P.J.  
We concur:    Davis, J.  
                  Raye, J.
- C036060      In re MICHELLE M.; THE PEOPLE v. MICHELLE M.**  
**(Not for Publication)**  
The judgment (order granting probation) is affirmed.  
SIMS, J.  
We concur:    Scotland, P.J.  
                  Nicholson, J.
- C036963      In re MANOLITO L. et al; DEPARTMENT OF SOCIAL SERVICES v.  
                  ROSIE H.**  
**(Certified for Partial Publication)**  
The order appealed from is affirmed. (CERTIFIED FOR PARTIAL  
PUBLICATION)  
SIMS, J.  
We concur:    Scotland, P.J.  
                  Nicholson, J.